

**Livable Delaware Advisory Council  
Del Tech Conference and Training Center Rm 427, Dover  
February 10, 2003**

**Minutes**

**Members Present:** Lt. Governor John Carney, Chair  
Sherry Freebery  
Nathan Hayward  
Randy Marvel  
Robert McLeod  
Paul Morrill  
Ken Murphy  
Marty Ross  
Rep. Roger Roy  
Michael Scuse  
Robert Stickels  
Lee Ann Walling  
Rick Woodin

**Members Absent:** Peg Baunchalk  
Judy Cherry  
Joe Corrado  
John Hughes  
Joe Myer  
Richard Pryor  
Sen. Robert Venables

**Others Present:** Charles Baker, New Castle County  
Karley Barnes, Budget Office  
Eileen M. Butler, Delaware Nature Society  
Temple Carter, Smyrna Council  
Chris Castagno, City of New Castle  
Kevin Coyle, DNREC  
David Edgell, State Planning  
Sherri Evans-Stanton, DNREC  
Doug Gramiak, Office of the Lt. Governor  
Connie Holland, State Planning  
Karen Horton, DSHA  
Herb Inden, State Planning  
Diane Jackewicz, State Planning  
Richard Kantz, Sussex County Council  
C. Scott Kidner, DAR  
Andrea Kreiner, Governor's Office  
Steve Lefebvre, DBA/DE  
Bob Martin, City of New Castle  
Ed O'Donnell, LDAC Livability Indicators Subcommittee  
Ann Marie Townshend, State Planning

Mr. Carney called the meeting to order at 1:15 p.m. Mr. Carney introduced two new members to the council. Ken Murphy representing civic associations and Eileen Butler from the Delaware Nature Society sitting in for Lori Spagnolo, who will be out for three months.

### **Smyrna Comprehensive Plan**

Mr. Carney turned the meeting over to Smyrna's Mayor, Mark Schaeffer, who introduced Dave Hugg. Dave Hugg asked everyone to reference a handout as he began his presentation of the comprehensive plan. Mr. Carney asked what process the plan has been through already. Mr. Hugg said the Smyrna Planning and Zoning Committee have held a dozen or so public meeting after which time it was sent to the Smyrna Council, which in turn held public hearings. SPO has review the plan, and sent its recommendations to Smyrna, letter attached, and now they are presenting it to the LDAC. Ms. Holland stated that is was an excellent plan but that New Castle and Kent Counties had concerns.

Mr. Hugg mentioned that all concerns mentioned in the SPO letter were actively being addressed by Smyrna and will be ready to present at their Town Council meeting on March 3.

Mr. Hugg said that four to five farms want to annex from Kent County. One developer is offering a school site. One reason for annexation is the density issue. Smyrna can offer them 5 to 6 homes per acre. One reason for annexation of the northern area is that they want to develop a better "Gateway to Smyrna" and bring it inline with the community. Mr. Hugg thought that New Castle County's concerns are environmental, but he stated that their growth plan allows for adequate protection in environmentally sensitive areas. He also stated that the town is prepared to accommodate the proposed growth. He also stated that that particular growth area is already on state plans, it just needs to be decided who will take care of it; the town or the county. Mr. Ross noted that all the town's schools are in the northern part of town, but that a majority of new residential growth is in the southern part of town. Mr. Carney asked him to hold the thought and it would be brought up later. Ms. Holland stated that the town is work diligently with SPO to resolve the recommendations stated in their letter dated January 10, 2003.

Mr. Carney stated that there was expansion in both Kent County and New Castle County. Mr. Stickles asked if the Secretary of Agriculture was part of this process. Ms. Holland said that the Secretary of Agriculture has been working with SPO and Smyrna concerning the ag lands to be annexed. Mr. Scuse said that since the ag lands are providing a natural boarder there doesn't seem to be a problem that they can't work through.

Mr. McLeod presented Kent's objections to the annexation to the south. The Levy Court Commissioners would like the boundaries changed to north of Benford Rd. and east of Rabbit Chase Road. He said this property abuts ag land and the highest number of complaints in Kent County comes from new developments abutting to working farms that sow, spray and reap almost year round. He said residential communities around ag property need to be less dense not more. Smyrna offers more density per acres. Mr. Stickles asked if New Castle County could handle the sewer capacity. He said that

normally the developer provides the pumping stations. Mr. Carney stated that this area is part of the 1999 State Investment Area and growth will occur here, it's just not clear right now under whose jurisdiction. Mr. Baker said New Castle County sewer lines go to Duck Creek. Mr. Hugg said that a study is being done on water and wastewater. Mr. McLeod stated that Kent County has adequate facilities for accommodating growth. The Levy Court would like to see buffer zones around proposed residential areas and the town should look at their current infrastructure. Mr. Woodin stated that density seems to be the issue, 2 to 3 homes per acres in Kent vs. 5 to 6 in Smyrna stating that density doesn't have to be a bad thing. He also asked if Smyrna considered Community Design standards and about Kent's TDR policy. Mr. McLeod said that TDR's are not actively practiced in Kent County.

Charlie Baker questioned the growth rate. New Castle County's 20-year plan has southern New Castle County at 12000 new homes on their sewer system. If this annexation goes through it could possible put 6000 homes on the system, one half of the projected growth, in just four to five years. Mr. Baker asked if a fiscal analysis has been done concerning cost of services. Mr. Hugg said a Plan of Services would be done at the time of annexation, parcel by parcel. Ms. Freebery stated that the Smyrna Comprehensive Plan was an ambitious one. She stated that New Castle County cannot sustain that kind of tax revenue loss and that the sewer and capital budget would be affected to the point that it would have to eliminate service in that area. The New Castle County plan down zone in areas below the canal. She also stated that New Castle County can be the only provider of sewer in New Castle County. Mayor Schaffer stated that Kent County is currently providing that service and can provide the capacity needed if annexation occurs. Mr. Baker stated New Castle County's main concerns are roads and sewers. Mr. Woodin said that there is potentially no new growth available in northern New Castle County so the shift to growth areas would naturally fall below the canal and that New Castle County should be able to accommodate the growth. Mr. Carney asked if this design was on the state's investment map.<sup>1</sup> He also expressed concern about creating competition for sewer infrastructure along the Rt. 299 corridor north to the canal.

Ms. Butler asked if the UDC environmental protections regulations were in the Smyrna code. She is particularly interested in the groundwater impact. Mr. Hugg said the Town of Smyrna's zoning code regulates environmental protection concerning buffers and set backs from ground wells.

Mr. Carney asked for a motion to send the comprehensive plan to Dispute Resolution since none of the parties are willing to negotiate. Mr. Baker asked why input was not sought from the New Castle County executive. Mayor Schaffer stated they he had asked the New Castle County executive office three or four times to meet and did not hear back from them. He did meet with County Council President Coons. Letters were also sent to the New Castle County planning office with carbon copies to the county executive. Ms. Freebery again stated that the executive office was not informed. Ms. Holland stated that a letter was sent six weeks ago to the county planning office. Mr. Carney again called for a motion, as an assumption based on process, to send Smyrna's comprehensive plan to the dispute resolution panel. Mr. Ross asked if a vote could be taken on the plan as is. Mr. Carney and Ms. Walling stated that if there is a dispute between either party, in this case three parties, then it must go to dispute resolution. Mr.

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<sup>1</sup> According to Ms. Holland, the New Castle County portion of the proposed Smyrna Annexation Plan is not on the State's Investment Map. 03/06/03

Ross made the motion with Ms. Freebery seconding. Ms. Freebery stated that she objected to the process and that the county executive, not the New Castle County planning department should have been notified throughout the process.

Ms. Walling stated that the dispute resolution panel is short one member and that she or Mr. Carney should be contacted if anyone has a nominee. Ms. Holland stated that the parties have forty-five days from this meeting to continue talks until it goes to dispute resolution. Ms. Holland also wanted it known that her directive was to coordinate planning issues through the New Castle County planning office not the New Castle County executive office. Mr. Carney called a vote on the motion; it passed with Mr. Stickles abstaining.

### **Land Use Planning Act Legislation**

Phil Cherry handed out the fact sheet and draft legislation on updating the current LUPA process. Mr. Marvel asked if anything new was in the legislation. Mr. Cherry and Ms. Holland stated that it would reduce paperwork and make it easier for interaction between developers and state planning. Mr. Woodin said he strongly supports the revised LUPA plan. He also asked if the Council could sign off on it today. With most members leaving after the Smyrna annexation plan review Mr. Carney said they no longer had a quorum. Ms. Walling said that they had Sen. Adams and Rep. Roy ready to sponsor the bill. Mr. Woodin asked Mr. Carney to canvas the members present to get a sense from the Council if they support the legislation. Mr. Carney asked for a motion. Mr. Woodin acknowledged first with Ms. Walling seconding. Remaining members approved.

Mr. Cherry also passed out the Green Infrastructure Subcommittee's Mission Statement and Principals. The subcommittee is looking for the Council's endorsement of a draft Resolution supporting said mission statement and principals. Mr. Carney asked the members to review the material and be prepared to take action at the next meeting.

Ed O'Donnell presented a progress report from the Livability Indicators Subcommittee. The paper summarizes ten livability indicators to measure quality of life in Delaware. He stated that the subcommittee is a working group and that this report is a work in progress. Ms. Walling asked that open spaces be added to #6, Amount of Conserved or Protected Lands. Mr. Carney was concerned that #9, Biodiversity, was not translatable to a layperson and needs to be so. Mr. O'Donnell said the subcommittee will continue to work on the report and it's data and will report back to the Council. Mr. Carney thanked Mr. O'Donnell for his and his groups work on the paper. Mr. Carney also asked Mr. O'Donnell to consider sitting on the Dispute Resolution Panel.

### **Other Business**

Seeing no other business, Mr. Carney adjourned the meeting at 3:40 P.M.

### **Next Meeting**

The next meeting will be held March 10, 2003 at the Paradee Center at 1:00 P.M.

Respectfully submitted,

Pat LaRue